

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Donald L. Blankenship, :
Plaintiff, :
v. : Case No. 2:14-cv-1227
: JUDGE ALGENON L. MARBLEY
Commissioner of Social Security, : Magistrate Judge Kemp
Defendant. :

REPORT AND RECOMMENDATION

The complaint in this action was filed on August 14, 2014. There is no record that service has been made upon the defendant (that is, no record that the Commissioner was ever sent a copy of the summons and complaint - apparently because Plaintiff did not provide service copies of the summons and complaint to the Marshal, even though, as the docket indicates, the Clerk sent him a letter on August 14, 2014, telling him he needed to do so). On January 13, 2015, the Court pointed out this problem to Plaintiff, and directed him to show cause within fourteen days why the case should not be dismissed under Fed.R.Civ.P. 4(m) and to move for an extension of time to make service. There has been no response to that order.

Given that service has never been made, and that Plaintiff has not asked for an extension of time or shown good cause why such an extension should be granted, Rule 4(m) says that the Court "must dismiss the action without prejudice" Consequently, the Court **recommends** such dismissal unless Plaintiff, in any objection to this Report and Recommendation, shows good cause why an extension of time to make service should

be granted.

Procedure on Objections

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A judge of this Court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the magistrate judge with instructions. 28 U.S.C. §636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the district judge review the Report and Recommendation de novo, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. See Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947 (6th Cir. 1981).

/s/ Terence P. Kemp
United States Magistrate Judge